

National Credit Union Administration

§ 723.4

AUTHORITY: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

SOURCE: 64 FR 28729, May 27, 1999, unless otherwise noted.

§ 723.1 What is a member business loan?

(a) *General rule.* A member business loan includes any loan, line of credit, or letter of credit (including any unfunded commitments) where the borrower uses the proceeds for the following purposes:

- (1) Commercial;
- (2) Corporate;
- (3) Other business investment property or venture; or
- (4) Agricultural.

(b) *Exceptions to the general rule.* The following are not member business loans:

- (1) A loan fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence;
- (2) A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;
- (3) Loan(s) to a member or an associated member which, when added together, are equal to less than \$50,000;
- (4) A loan where a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or
- (5) A loan granted by a corporate credit union to another credit union.

[64 FR 28729, May 27, 1999, as amended at 64 FR 57365, Oct. 25, 1999]

§ 723.2 What are the prohibited activities?

(a) *Who is ineligible to receive a member business loan?* You may not grant a member business loan to the following:

- (1) Your chief executive officer (typically this individual holds the title of President or Treasurer/Manager);
- (2) Any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager);
- (3) Your chief financial officer (Comptroller); or
- (4) Any associated member or immediate family member of anyone listed

in paragraphs (a) (1) through (3) of this section.

(b) *Equity agreements/joint ventures.* You may not grant a member business loan if any additional income received by the credit union or senior management employees is tied to the profit or sale of the business or commercial endeavor for which the loan is made.

(c) *Loans to compensated directors.* A credit union may not grant a member business loan to a compensated director unless the board of directors approves granting the loan and the compensated director is recused from the decision making process.

§ 723.3 What are the requirements for construction and development lending?

Unless the Regional Director grants a waiver, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements.

(a) The aggregate of all construction and development loans must not exceed 15% of net worth. To determine the aggregate, you may exclude any portion of a loan:

- (1) Secured by shares in the credit union;
- (2) Secured by deposits in another financial institution;
- (3) Fully or partially insured or guaranteed by any agency of the federal government, state, or its political subdivisions; or
- (4) Subject to an advance commitment to purchase by any agency of the federal government, state, or its political subdivisions;

(b) The borrower must have a minimum of 35% equity interest in the project being financed; and

(c) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

§ 723.4 What are the other applicable regulations?

The provisions of § 701.21(a) through (g) of this chapter apply to member business loans granted by federal credit